

Town of Stow

Public Records Retention Guide

As a volunteer for the Town of Stow, you may be serving on a town board, a committee, or a sub-committee. The Massachusetts Public Records Law applies to records created by or in the custody of a state or local agency, board, or other government entity. Therefore, you will need to adhere to the laws and regulations for public records.

This guide provides important information about public records as it relates to Stow. It answers some of the common questions and discusses public records retention and how to respond to requests for public records. It also includes guidelines specific to email. Please read through this guide and review the documents listed in [Appendix A](#) for more information. Please also review the [Open Meeting Law Guide](#) – many public records relate specifically to the Open Meeting Law.

General Information

What is a public record?

As defined by law, every document, paper, record, map, photograph, etc. that is made or received by a government entity or employee (including Town government volunteers!) is presumed to be a public record. This applies whether the document is in hard copy and distributed at a meeting, or created on a computer, or scanned and sent to others via email. The Public Records Law also applies to videotapes, audiotapes, and email.

There are a few exemptions. However, you should consider every document your organization produces, reviews, or receives as part of your organization's "business" to be a public record. If you have any question about whether a document is a public record, please contact the [Town Clerk](#).

The most relevant public records include:

- Meeting agendas
- Meeting minutes
- Hand-outs for discussion at a meeting
- Correspondence

Please note that email may be considered a public record! For more information, see the [Email](#) section.

Who needs to retain records?

Town employees and volunteers are all subject to the Public Records Law. To manage the process more efficiently, we recommend that your organization appoint the Chair or Clerk to serve as your Records Custodian. This person would be responsible for gathering and keeping your records and for responding to requests to obtain them. If you have administrative support, we recommend that the Town employee serve as the Records Custodian.

How should I retain our organization's records?

The Records Custodian should keep copies of all agendas and minutes (draft and approved) in hard copy. Once minutes have been approved, you should sign a copy, date it, and give it to the Town Clerk. If the office is not open, you can leave the minutes in the folder on the Town Clerk's door.

The Records Custodian should also have copies of all documents, drafts, and correspondence readily available. You will need to keep these according to a retention schedule that identifies how long a certain type of record must be maintained. [Appendix B](#) has more information about retention schedules.

Where do I store records?

Official town records should be stored at the Town Building, in your department's office. For those municipal government organizations without offices, store them in a locked file cabinet in a designated filing area in the building. Older, permanent records that are not needed on a regular basis should be stored in the vault. The Town Clerk will assist you.

If you have administrative support, work with that person to file the documents, using some type of system so that you can easily find the documents if requested.

If your municipal government organization does not have an administrative office in the building, you should only keep your committee's records (current minutes, agendas, agenda items) at home on a temporary basis. Please make sure that you store them in a secure environment that is not at risk of theft or destruction. For example, do not store your paper records in a basement that could flood or store electronic records on DVDs in an attic that could overheat and cause the media to warp. If you keep electronic records on a personal PC, please back up the data on a regular basis and make sure that you do not overwrite the information. Copies of paper records and DVDs of electronic documents "shall be transferred on a regular and frequent basis" to secure storage in the municipal building. Remember, the hard copies of the records are the official record. The electronic versions are the "back-up" copies for your records.

When can I get rid of records?

You need to retain records according to the Commonwealth's retention schedule. If you want to dispose of a record, you need to get approval in advance. Fill out FORM RMU-IW – RECORDS INVENTORY WORKSHEET, included in [The Commonwealth of Massachusetts Municipal Records Retention Manual](#), and send it to the Commonwealth's Records Management Unit (the address is on the form).

"Common" records have the following retention periods:

Correspondence: general administrative (associated with administrative practices but does not create policy or procedure)	Three years
Correspondence: policy development	Five years

Correspondence: transitory messages (reminder messages, announcements, telephone messages)	Until administrative use ceases – no permission is needed to destroy
Meeting notices and agendas	One year
Meeting minutes	Permanent – including drafts if they significantly differ from the approved version
Documents, exhibits, or other records used in your meetings	Drafts: 90 days unless an Open Meeting Law complaint is made within that timeframe Six months + whatever timeframe may be required by law, depending on the document

What if I want to request records from another organization?

You should request the record from the records custodian for that board or committee.

Where do I go for help?

Contact the Town Clerk, Linda Hathaway, at 978-897-4514 x1 or townclerk@stow-ma.gov.

Requests for Public Records

Occasionally, you may be requested for copies of public records. Here are some tips for responding to these requests:

- As soon as you get a records request, please contact the Town Clerk, Linda Hathaway. The Town Clerk serves as our Records Liaison Officer, and she can help you through the process and advise you on your response. **Do not wait.** Even if it is after business hours, leave a voicemail message or send an email: 978-897-4514 x 1 or townclerk@stow-ma.gov.
- A request must go to your organization's Records Custodian. It can be made in writing (which the state recommends) or orally; however, the request should not be made by telephone.
- The Records Custodian has 10 days to respond to a request in writing. This does not mean that you have to provide all of the records that are requested within 10 days. Within 10 days, you only need to acknowledge the request and provide an estimated quote if you expect the charge to be more than \$10. Your estimate should contain a statement that the actual cost of producing the records may vary once you begin preparing them. You can require payment of the estimated fee before beginning the work.
- Charges for records vary depending upon the format. For example, you can charge twenty cents (\$0.20) per page for photocopies, twenty-five cents (\$0.25) per page for microfilm copies, and fifty cents (\$0.50) per page for computer printouts. You can also charge the actual cost of reproducing a copy of a record that is not reproduced by ordinary means, such as computer records or over-

sized plans. In addition, you can charge a per-hour rate based on the lowest paid employee who is capable of doing the work. You can find the complete list of charges in the [Public Records Law](#).

- Minutes do not have to be approved in order to provide them. You should consider all draft materials to be public records. According to the Guide to the Massachusetts Public Records Law, minutes must be made available at the close of the meeting regardless of form. You can photocopy notes and mark them “unofficial” if requested.
- You do not have to create a record if it does not already exist. For example, you may get a request for a summary of all of the applicants who requested a waiver in the past 10 years. If you do not already have this in written format, you do not have to create it.
- Note that the state advises that we keep public records that are of great interest to a large number of people readily available and make them available at little or no cost. Many committees don’t have an office or administrative support. At a minimum, you should give copies of your agendas and minutes to the Town Clerk as soon as possible.
- If you do not respond within 10 days, the requestor can appeal to the Commonwealth’s Supervisor of Records within 90 days of the original request. The appeal must include a copy of the original request (the request must have been in writing) and any response from the Records Custodian. Appeals will be opened on a case-by-case basis.

Email

The Public Records Law applies to all government records, including computer records and email. “Correspondence” includes emails “relating to the business of a public body between members of the public body and between members of the public body and non-members.” As such, you will need to retain copies of email that you receive and send relating to your board or committee’s work whether it is among your group or exchanged with someone from the general public or another board or committee.

The regulations for email are still evolving. At this time, every email record is required to have all of the following information:

- The names of the sender and addressee(s), including addressees who are copied
- The date the message was sent
- Message metadata (metadata stores data about the structure, context, and meaning of raw data, and computers use it to help organize and interpret data, turning it into meaningful information)
- All attachments
- Any other transmission data that provides the context of the record.

Therefore, the retention requirements for email are stringent. You cannot simply use your email system for storing email records unless it meets all of the requirements in Section 5 of the [Electronic Records Management Guidelines](#), including the criteria listed above. An alternative is to print out email messages and save them in hard copy format for their retention period.

Email Classifications

The [Electronic Records Management Guidelines](#) require that email messages be grouped with related records into classifications relating to the nature of the business. For our Town's purposes, you can group all of your messages by your board or committee. If your organization is complex, you may want to consider subclassifications.

If a member of the public sends only me an email about a Town-related topic, is that message considered a public record?

Often, members of the public contact one person on a board or committee. Or, two members of the board or committee want to exchange email on a related topic. This is a gray area. As long as a quorum of members is not involved in the email exchange – either directly included on the distribution list or from forwarding a conversation, then the conversation is not considered “deliberation.” However, you should respond to all email with the sense that the message could be seen or read by any member of the public. Practice discretion. The best guidance is not to reply by email. You can speak with the person by phone.

Appendix A: Related Documents

The following are the official source documents.

[Public Records Law](#) - Office of the Secretary of the Commonwealth

[Public Records Division](#) - Office of the Secretary of the Commonwealth

[A Guide to Massachusetts Public Records Law](#) (Mass. General Laws Chapter 4, section 7(26), Chapter 66) - Office of the Secretary of the Commonwealth

[The Commonwealth of Massachusetts Municipal Records Retention Manual](#) (2011 edition) - Records Management Unit, Massachusetts Archives

[Electronic Records Management Guidelines](#) – Records Management Unit, Massachusetts Archives

[SPR Bulletin No. 1-99 February 16, 1999: Electronic Mail](#), revised and reissued on May 21, 2003

[Open Meeting Law Guide](#) – From the official website of the Attorney General of Massachusetts

Appendix B: Records Disposal Schedules for Municipal Government

The Commonwealth of Massachusetts has 25 different records disposal schedules for specific municipal agencies. These schedules describe records created as a result of a particular activity, identify the content of the record, describe how the record is used, and specify the lifecycle of the information. Please also review [The Commonwealth of Massachusetts Municipal Records Retention Manual](#) for more applicable information.

Schedules are available for “common records” that apply across departments and boards and for the following municipal departments and boards. If you have questions about your particular organization, please work with the Town Clerk.

Accountant/Auditor	Licensing Board
Administration, Personnel & Records in Common	Planning Board
Board of Appeals	Police Department
Board of Assessors	Public Library
Board of Health	Purchasing
Building Inspector	Retirement Board
City Clerk/Town Clerk	School Department
Collector	Sealer of Weights and Measures
Conservation Commission	Selectmen
Council on Aging	Shellfish Constable
Department of Public Works	Treasurer
Fire Department/ Fire District	Veterans' Service Agent
Historical Commission/ Historic District Commission	